

IN THE HIGH COURT OF JUDICATURE AT MADRA

DATED: 09.12.2019

CORAM

THE HONOURABLE MR.JUSTICE N.KIRUBAKARAN
AND
THE HONOURABLE MR. JUSTICE P. VELMURUGAN

T.C.A. No. 151 of 2019
&
C.M.P. No. 4015 of 2019

Principal Commissioner of Income Tax 6,
No.121, Mahatma Gandhi Road,
Chennai.

... Appellant

Vs.

Shri A. Lalichan

... Respondent

Prayer: Appeal under Section 260A of the Income Tax Act, 1961
as against the order of the Income Tax Appellate Tribunal, Madras
'B' Bench dated 12.07.2018 in ITA No. 1881/Chny/2016,

as against the Order passed by the Commissioner of Income
Tax in order dated 18/03/2016 for the Assessment Year (2009-2010)
(2010-11) and (2011 -12) and as against the reassessment order
dated 26/03/2014 for the Assessment Years (2009-10) (2010-11) and
(2011-2012) by the Income Tax Officer, Chennai.

For Appellant :: Mr.J. Narayanasamy,
Senior Standing Counsel

For Respondent :: Mr.M.P. Senthilkumar

J U D G M E N T

(Judgment of the Court was delivered by N.KIRUBAKARAN,J.)

This Tax Case Appeal has been preferred by the Revenue
against the order dated 12.07.2018 passed in
ITA.No.1881/Chny/2016 on the file of the Income Tax Appellate
Tribunal, Madras 'B' Bench for the assessment year 2011-2012.

2.A survey under Section 133A of the Income Tax Act,1961
was conducted in the business premises of the
respondent/assessee by the Investigation Wing, Unit-III, Chennai

on 05.06.2012. The assessee had not filed the return of income for the assessment year 2011-2012. Hence, notice under Section 148 of the said Act was issued. In response to this notice, the assessee filed return of income on 04.04.2013 admitting NIL income. Notice under Section 142(1) of the said Act was issued calling for various details. Thereafter, on perusal of return and details furnished, the assessment was completed under Section 143(3) r/w Section 147 of the said Act on 26.03.2014 assessing an income of Rs.4,93,69,000/- Aggrieved by the said order made by the Assessing Officer, the assessee preferred an appeal before The Commissioner of Income Tax (Appeals) which came to be dismissed by order dated 18.03.2016. Questioning the same, the assessee preferred an appeal before the Income Tax Appellate Tribunal, Chennai 'B' Bench in ITA No. 1881 of 2016 which was partly allowed by the impugned order. Against the order of the Appellate Tribunal only, the present appeal has been filed by the Revenue.

3.The appeal is admitted on the following substantial questions of law :

"1. Whether the ITAT is correct in law in adopting Rs.9,32,80,000/- as the cost of acquisition of land at Kerala by virtue of the agreement dated 24.01.2007 when the assessee in its computation of capital gains has claimed Rs.4,49,33,080/- only as the total cost of land in the computation statement filed on 02.07.2012 during the post survey proceedings?

2. Whether the ITAT is correct in adopting Rs.9,32,80,000/- as the cost of acquisition of the land when in fact the assessee has not submit any evidence of payments in excess of Rs.4,49,33,080/- towards the purchase of land and the initial burden is not discharged by the assessee?

3. Whether the Appellate Tribunal is correct in holding that the Revenue has accepted the agreement dated 24.01.2007 as genuine and undisputed document when in fact, the learned CIT(A) in his order has questioned the genuineness of the documentary proof as it is not placed before any notary and no revenue stamp affixed?

4.Mr.J. Narayanasamy, learned Senior Standing Counsel appearing on behalf of the appellant would submit that the tax effect in this case is less than Rs.1 crore and is covered by Circular No.17/2019 dated 08.08.2019 issued by the Director, Central Board of Direct Taxes, Department of Revenue, Ministry of Finance, Government of India, Delhi. As per the said circular, the monetary limit to file an appeal before the High Court is fixed at Rs.1 crore. In this case, tax effect is less than Rs.1 crore and therefore, the case has to be dismissed.

5.This Court perused the circular dated 08.08.2019 and Paragraph No.2 of the said Circular, which prescribes monetary limit for filing appeal is usefully extracted as follows:

2.As a step towards further management of litigation, it has been decided by the Board that monetary limits for filing of appeals in income-tax cases be enhanced further through amendment in Para 3 of the Circular mentioned above and accordingly, the table for monetary limits specified in Para 3 of the Circular shall read as follows:

S.No.	Appeals / SLPs in Income-tax matters	Monetary Limit (Rs.)
1.	Before Appellate Tribunal	50,00,000
2.	Before High Court	1,00,00,000
3.	Before Supreme Court	2,00,00,000

6.In view of the submissions made by the learned Senior Standing counsel appearing on behalf of the appellant and also in view of the Circular No.17/2019 dated 08.08.2019 issued by the Director, Central Board of Direct Taxes, Delhi, the Tax Case Appeal is dismissed on account of tax effect. However, the substantial questions of law framed are left open. In the event the tax effect is above the limit fixed in the said circular, liberty is granted to the Revenue to make a mention to this Court to restore the appeal to be heard and decided on merits. No costs. Connected C.M.P. is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

1.The Income Tax Appellate Tribunal,
Madras 'B' Bench.

2.The Commissioner of Income Tax,
Nungambakkam, Chennai.

3.The Income Tax Officer,
Ward IV(1), Chennai-34.

+1cc to Mr.J.Narayanaswamy, Advocate Sr.103260
+1cc to Mr.G.Baskar, Advocate Sr.102750

T.C.A. No. 151 of 2019

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srg 10/02/2020